

Order

Michigan Supreme Court
Lansing, Michigan

May 27, 2015

Robert P. Young, Jr.,
Chief Justice

ADM File No. 2015-07

Stephen J. Markman

Mary Beth Kelly

Brian K. Zahra

Bridget M. McCormack

David F. Viviano

Richard H. Bernstein,
Justices

Proposed Amendment of
Rule 3.101 of the Michigan
Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 3.101 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at [Administrative Matters & Court Rules page](#).

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text
is shown by strikeover.]

Rule 3.101 Garnishment After Judgment

(A) [Unchanged.]

(B) Postjudgment Garnishments.

(1) Periodic garnishments are garnishments of periodic payments, as provided in this rule.

(a) Unless otherwise ordered by the court, a writ of periodic garnishment served on a garnishee who is obligated to make periodic payments to the defendant is effective until the first to occur of the following events:

(i) the amount withheld pursuant to the writ equals the amount of the unpaid judgment, interest, and costs stated in the verified statement in support of the writ;
or

(ii) ~~the expiration of 182 days after the date the writ was issued;~~

(iii) the plaintiff files and serves on the defendant and the garnishee a notice that the amount withheld exceeds the remaining unpaid judgment, interest, and costs, or that the judgment has otherwise been satisfied.

(b) The plaintiff may not obtain the issuance of a second writ of garnishment on a garnishee who is obligated to make periodic payments to the defendant while a prior writ served on that garnishee remains in effect relating to the same judgment. ~~The plaintiff may seek a second writ after the first writ expires under subrule (B)(1)(a).~~

(c) [Unchanged.]

(2) [Unchanged.]

(C)-(D)[Unchanged.]

(E) Writ of Garnishment.

(1)-(4)[Unchanged.]

(5) The writ shall inform the defendant that unless the defendant files objections within 14 days after the service of the writ on the defendant or as otherwise provided under MCL 600.4012,

(a) without further notice the property or debt held pursuant to the garnishment may be applied to the satisfaction of the plaintiff's judgment, and

(b) periodic payments due to the defendant may be withheld until the expiration of the writ judgment is satisfied and in the discretion of the court paid directly to the plaintiff.

(6) [Unchanged.]

(F)-(T)[Unchanged.]

Staff Comment: The proposed amendment of MCR 3.101 would eliminate subrule (B)(1)(a)(ii) and make other coordinating changes to reflect statutory revisions in 2015 PA 14 and 15.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Office of Administrative Counsel in writing or electronically by September 1, 2015, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2015-07. Your comments and the comments of others will be posted under the chapter affected by this proposal at [Proposed & Recently Adopted Orders on Admin Matters page](#).



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 27, 2015

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk